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January 23, 2007

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

JAN 23 P 1:02

Jeff S. Jordan  
Office of General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

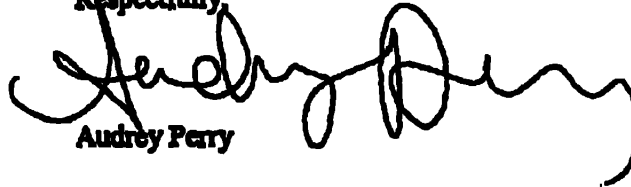
Re: MUR 5887 (Republican Main Street Partnership PAC)

Dear Mr. Jordan:

This letter and enclosed response and Affidavits (collectively referred to as the "Response") are submitted on behalf of the Republican Main Street Partnership PAC in response to the complaint ("Complaint") filed with the Federal Election Commission ("FEC") by the Club for Growth in MUR 5887 against the Republican Main Street Partnership PAC ("PAC").

For the reasons described below, the Commission should determine that no action should be taken against the Republican Main Street Partnership PAC.

Respectfully,



Audrey Perry

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**RESPONSE OF THE REPULICAN MAIN STREET  
PARTNERSHIP PAC TO THE CLUB FOR GROWTH  
COMPLAINT IN FEDERAL ELECTION  
COMMISSION MUR 5887**

**Complaint**

The campaign finance violations alleged in the Complaint filed by the Club for Growth are without merit and based on inaccurate information. This Complaint appears to have been filed by the Club for Growth in retaliation to a complaint filed with the Commission in September 2006 by the Schwarz campaign. That complaint alleged many of the same campaign finance violations that the Club for Growth is now accusing the Schwarz campaign and the PAC of. This Response explains the facts pertaining to each of the Complaint's alleged violations and outlines why the Commission should determine that no action should be taken against the Republican Main Street Partnership PAC in this matter.

**Discussion**

**Alleged Violation #1: Congressman Joe Schwarz did not illegally exercise control over the PAC's independent expenditures on his behalf in violation of 2 U.S.C. § 431, 2 U.S.C. § 441a, and 11 C.F.R. § 109.**

The Complaint alleges that \$91,000 to \$470,000 of independent expenditures made by the PAC in support of Mr. Schwarz's campaign were illegally coordinated with the campaign.

The Complaint offers as evidence of this coordination the fact that Mr. Schwarz is listed on the PAC's website in the "About Us" section under a heading of "PAC Advisory Board" and therefore must have "at a minimum provide[d] substantial control or input" in the PAC's decisions. Complaint at 1.

Only members of the PAC Board have control and decision-making authority to determine where to make contributions and disbursements on behalf of the PAC.

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Resnick Aff. ¶ 3, Upton Aff. ¶ 1, Bass Aff. ¶ 1, and Davis Aff. ¶ 1. The only members of the Republican Main Street Partnership PAC Board during the 2006 election cycle were Congressman Charles Bass, Congressman Tom Davis, and Congressman Fred Upton. *Id.* Only the PAC Board and treasurer Sarah Chamberlain were involved in discussions regarding PAC contributions and disbursements. Resnick Aff. ¶ 3, Upton Aff. ¶ 3, Bass Aff. ¶ 3, and Davis Aff. ¶ 3.

Representative Joe Schwarz was not, and has never been, a member of the PAC Board. Resnick Aff. ¶ 4, Upton Aff. ¶ 2, Bass Aff. ¶ 2, and Davis Aff. ¶ 2. He is one of a large number of Republican Members of Congress who allow their names to appear as supporters of the PAC, which is the list of Members on the "About Us" page of the PAC's website. *Id.* However, with the exception of the members of the PAC Board noted above, none of these Members of Congress have any decision-making responsibilities for the PAC and its disbursements and contributions. *Id.*

The independent expenditures made by the PAC on Mr. Schwarz's behalf were not coordinated with the Schwarz campaign. In order for a communication to be considered coordinated, it must meet one of the conduct standards under 11 CFR 109.21(d). These communications did not meet any of the conduct standards. No one from the Schwarz campaign was involved in the creation, production, or distribution of the advertisements and other independent expenditures, and the advertisements were not produced at the request of Mr. Schwarz or his campaign. Resnick Aff. ¶ 9; Upton Aff. ¶ 6,7; Davis Aff. ¶ 6. Mr. Schwarz was never present at a meeting where members of the PAC Board discussed making independent expenditures in his race. *Id.* The information contained in the advertisements was publicly available. *Id.* It was not provided to the PAC or the PAC's vendors by Mr. Schwarz or his campaign. *Id.* The PAC did not use the services of any of the same vendors who worked for Mr. Schwarz or his campaign. Resnick Aff. ¶ 9, Upton Aff. ¶ 10. Therefore, PAC's independent expenditures do not meet any of the required conduct standards and therefore were not coordinated expenditures.

The Complaint also alleges the Republican Main Street Partnership made an illegal corporate contribution to the Schwarz campaign of \$865 for "Catering and event

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supplies." This was a clerical error on the part of the Schwarz campaign; the contribution was given by the PAC to Schwarz's campaign, not by the Republican Main Street Partnership. The PAC reported this in-kind contribution to the Schwarz campaign on its July Monthly FEC Report. Exhibit A. The PAC is not connected to the Republican Main Street Partnership, an independent 501(c)(4) organization.

**Alleged Violation #2: The PAC did not make contributions beyond the legal limit to the Schwarz campaign.**

As explained above, the \$91,000 in independent expenditures spent by the PAC in Mr. Schwarz's district was not coordinated with Mr. Schwarz or his agents. Therefore, the PAC contributed a total of \$3,865 to the Schwarz campaign during the 2006 election cycle, which is under the federal limit of \$5,000.

**Alleged Violation #3: This alleged violation does not involve the PAC.**

**Alleged Violation #4: The PAC did not fail to include proper disclaimers on the radio ad and press release mentioned in the Complaint.**

The Complaint indicates that a radio ad on the PAC's website did not include proper disclaimers under 11 C.F.R. §§ 110.11(c)(4) and (b)(3). The Club for Growth included this ad in their Complaint as an audio file on a CD as Exhibit G. 11 C.F.R. § 110.11(c)(4) only applies to communications "transmitted through radio or television or through any broadcast, cable, or satellite transmission." The ad discussed in the Complaint was posted on the PAC's website, but was never "transmitted through radio" or any other broadcast. Resnick Aff. ¶ 8.

Before Mr. Schwarz's primary election, Mr. Upton, a Member of Congress from an adjacent district and a member of the PAC's Board, wrote and recorded two potential radio ads supportive of Mr. Schwarz. Only one of these potential ads was ever broadcast on the radio. *Id.* One potential ad was recorded and produced at the Ventana Productions

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studio in Washington, DC. Upton Aff. ¶ 9, Resnick Aff. ¶ 8. We believe this is the ad included in the Complaint as Exhibit G. Resnick Aff. ¶ 8. The other potential ad was recorded and produced at a radio station in Mr. Upton's district. Upton Aff. ¶ 9, Resnick Aff. ¶ 8. We believe the ad actually broadcast in Mr. Schwarz's district was the ad recorded in Michigan by Mr. Upton. Resnick Aff. ¶ 8. Mr. Upton recorded disclaimers for the ads at the same time as recording the ads, and to the PAC's knowledge the disclaimer was included in the ad that was actually broadcast. Upton Aff. ¶ 9. The production of these ads was paid for as an independent expenditure by the PAC. Resnick Aff. ¶ 8. The potential ad included in the Complaint was posted on the PAC's website, but never broadcast on any radio station. *Id.* Since the ad discussed in the Complaint was never broadcast on any radio station, it was not required to have the disclaimers required by 11 C.F.R. § 110.11(c)(4).

11 C.F.R. § 110.11(b)(3) applies to all public communications, including Internet websites of political committees available to the general public. Since the audio ad included in the Complaint was posted on the PAC's website, it was required to include the disclaimers outlined in 11 C.F.R. § 110.11(b)(3). This section requires that "the disclaimer must clearly state the full name and permanent street address, telephone number, or World Wide Web address of the person who paid for the communication, and that the communication is not authorized by any candidate or candidate's committee." 11 C.F.R. § 110.11(b)(3). The audio ad included in the Complaint satisfied these requirements because the PAC website included a written disclaimer explaining that the PAC paid for the ad. Resnick Aff. ¶ 8. The PAC's contact information was also included on the site. *Id.*

The Complaint also argues that the PAC did not include required disclaimers on a U.S. Newswire press release, included in the Complaint as Exhibit G, part 2. This press release was not distributed by the PAC. Resnick Aff. ¶ 12. It appears to have been pulled from the PAC's website by a reporter or outside press agent and distributed as a news article. *Id.* The PAC does not have control over persons who take information from the PAC's website and distribute it through a wire service. *Id.* No one from the PAC was involved in distributing this article through U.S. Newswire: in fact, the PAC was unaware

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of the publication of the article on U.S. Newswire. *Id.* When the information was posted publicly on the PAC's website, it included the proper disclaimers. Resnick Aff. ¶ 12.

**Alleged Violation #5: The PAC included all the required disclaimers on the television ad mentioned in the Complaint.**

The complaint alleges that a television ad run by the PAC to benefit Mr. Schwarz did not have the proper written disclaimer because the disclaimer appeared at the beginning of the ad and not the end. The statute does not require the written disclaimer to appear at the end of the ad. 2 U.S.C. 441d(d)(2).

**Alleged Violation #6: The PAC did not bundle any contributions on behalf of the Schwarz campaign, and therefore was not required to file reports under 11 C.F.R. § 110.6(c)(2). The PAC did not report money raised for the Schwarz campaign through its website because the PAC did not raise any money for Mr. Schwarz online.**

The PAC did not file any bundling reports with the FEC because the PAC did not act as a conduit for any contributions to the Schwarz campaign as defined by 11 C.F.R. § 110.6(b)(2). Resnick Aff. ¶ 10. The PAC sponsored a fundraising event for Mr. Schwarz and several other Members, which is the event referred to in Exhibit H of the Complaint. *Id.* As the sponsor, the PAC in-kind the food and drink from the event to the Schwarz campaign and the other candidates for whom the event was held. *Id.* Attendees at this PAC event contributed directly to the candidates or their campaign agents. *Id.* PAC employees were directed not to accept or transmit any checks. *Id.* Contributors were instead asked to give contributions directly to the candidate or their campaign agent. Resnick Aff. ¶ 10. Therefore, since the money raised at these events was never in the possession of the PAC, but rather went directly to the candidates, the PAC was not required to file conduit reports with the FEC under 11 C.F.R. § 110.6(c)(2).

The PAC did not report funds raised for the Schwarz campaign through its website because the PAC has never actually received any money through the Internet.

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Resnick Aff. ¶ 11. There is no mechanism on the PAC's website for people to contribute directly to candidates. *Id.* Furthermore, there is no mechanism on the website to indicate earmarked contributions to particular candidates. *Id.*

**Alleged Violation #7: The independent expenditures discussed in the Gannett News Service article were made by the PAC, not Republican Main Street Partnership. The Gannett New Service article incorrectly reported the name of the organization and misquoted PAC treasurer Sarah Chamberlain Resnick.**

In the interview by reporter Katherine Hutt Scott, Ms. Resnick discussed the independent expenditures made by the PAC in Mr. Schwarz's race. The news article misquoted Ms. Resnick when it reported that \$470,000 was spent in Mr. Schwarz's race. The PAC spent \$91,000 in independent expenditures in Mr. Schwarz's race, as detailed in the PAC's FEC reports. Resnick Aff. ¶ 13.

### Conclusion

The violations alleged in the Complaint filed by the Club for Growth are without merit for the reasons discussed above, and may have been filed in retaliation to a complaint filed with the Commission by the Schwarz campaign. Therefore, the Commission should determine that no action should be taken against the Republican Main Street Partnership PAC in this matter.

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Exhibit A

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**SCHEDULE B (FEC Form 2X)  
ITEMIZED DISBURSEMENTS**

 Use separate schedule(s)  
for each category or the  
Detailed Summary Page

 FOR LINE NUMBER:  
(check only one)

PAGE 20 / 24

<input type="checkbox"/> 21b	<input type="checkbox"/> 22	<input checked="" type="checkbox"/> 23	<input type="checkbox"/> 24	<input type="checkbox"/> 25	<input type="checkbox"/> 26
<input type="checkbox"/> 27	<input type="checkbox"/> 28a	<input type="checkbox"/> 28b	<input type="checkbox"/> 28c	<input type="checkbox"/> 29	<input type="checkbox"/> 30a

Any information copied from such Reports and Statements may not be used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee

NAME OF COMMITTEE (in Full)

Republican Mainstreet Partnership PAC

Full Name (Last, First, Middle Initial)

A. Christopher Shays for Congress

Mailing Address 88 East Avenue  
Rear BuildingCity  
NorwalkState  
CTZip Code  
06851Purpose of Disbursement  
Candidate Contribution

Candidate Name

Category/  
TypeOffice Sought: ☒ House  
Senate  
PresidentDisbursement For: 2008  
Primary ☒ General  
Other (specify) ☐

State: CT District: 04

Transaction ID: 8825.8003

Date of Disbursement

08 / 21 / 2008

Amount of Each Disbursement This Period

1000.00

Full Name (Last, First, Middle Initial)

B. Huffman for Congress

Mailing Address PO Box 70210

City  
TucsonState  
AZZip Code  
85737Purpose of Disbursement  
Candidate Contribution

Candidate Name

Category/  
TypeOffice Sought: ☒ House  
Senate  
PresidentDisbursement For: 2008  
Primary ☒ General  
Other (specify) ☐

State: AZ District: 5

Transaction ID: 8825.8004

Date of Disbursement

08 / 22 / 2008

Amount of Each Disbursement This Period

6000.00

Full Name (Last, First, Middle Initial)

C. Sanctuary Inn (Amar Express)

Mailing Address One Sanctuary Beach Drive

City

Kiaush Island

State  
SCZip Code  
29485Purpose of Disbursement  
Facilities/ Catering In-kindCandidate Name  
Schwarz for CongressCategory/  
TypeOffice Sought: ☒ House  
Senate  
PresidentDisbursement For: 2008  
Primary ☒ General  
Other (specify) ☐

State: MI District: 7

Transaction ID: 8825.8213

Date of Disbursement

08 / 20 / 2008

Amount of Each Disbursement This Period

825.00

[MEMO ITEM]

SUBTOTAL of Disbursements This Page (optional)

8000.00

TOTAL This Period (last page this line number only)

28000.00

FEC Schedule B (Form 2X) Rev. 08-2004

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